In the High Court of Punjab and Haryana, Chandigarh.

Civil Revision No.6699 of 2007

Date of Decision: 21.12.2007

Darshan Singh

…Petitioner

Versus

Charan Dass Sharma and Another

…Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr. Gagandeep Singh, Advocate
for the petitioner.

RAJESH BINDAL, J.

The challenge in the present petition is to the order dated October 18, 2007 passed by learned Civil Judge (Junior Division), Amritsar, whereby the cross-examination of respondent No.1/plaintiff by petitioner/defendant No.1 has been closed by order of the Court in a suit filed by respondent No.1/plaintiff for possession and for mandatory and permanent injunction.

For the view I am taking in the present petition, I do not deem it appropriate to issue notice to the respondents as the same would unnecessarily delay not only disposal of the present petition but the suit as well.

The case set up by the petitioner is that respondent No.1/plaintiff filed a suit for possession of land as shown in the site plan attached with the plaint. Further the prayer was for mandatory injunction directing the petitioner/defendant No.1 to demolish the wall marked AB in the site plan and further for permanent injunction restraining the petitioner/defendant No.1 from raising any type of construction in the area in dispute.

Learned counsel for the petitioner/defendant No.1 submitted that on October 18, 2007, counsel for the defendant No.1 was not ready to cross-examine respondent No.1/plaintiff for the reason being that she was supplied the copy of examination-in-chief of PW-7 on the same day and on the asking

of the Court she submitted that she would cross-examine PW-7 after lunch, however, after lunch break, she could not cross-examine the said witness as she had to leave the Court due to certain personal difficulty. However, learned Court below closed the cross-examination of PW-7 on behalf of petitioner/defendant No.1 after recording the same as Nil and fixed the case for evidence of defendant. Learned counsel for petitioner/defendant No.1 submits that in case one opportunity is granted, he will cross-examine PW-7 on the date already fixed, as nothing has happened since then as the defendants are still to start their evidence. Still further the submission is that if on account of personal difficulty of the counsel, she was not able to cross-examine the witness, the petitioner should not be made to suffer and on account of delay, the respondents can be compensated with costs.

Having heard learned counsel for the petitioner, I find merit in the submissions made by learned counsel for the petitioner/defendant No.1. Keeping in view the interest of justice, I deem it appropriate to grant one opportunity to the petitioner/defendant No.1 to cross-examine PW-7 on the date already fixed i.e. January 4, 2008. However, the same shall be subject to payment of Rs. 2,000/- as costs to the respondent No.1/plaintiff. However, it is made clear that no further opportunity shall be granted to the petitioner/defendant No.1 in case, he fails to cross-examine PW-7 on the date fixed.

The revision petition is disposed of in the manner indicated above.

(Rajesh Bindal)
Judge

December 21, 2007
"DK"